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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/668,824	Applicant(s) GRANDY ET AL.	
	Examiner OMAR PARRA	Art Unit 2421	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-8, 10-16, 18, 19, 21, 22, 24, 25, 27-33, 35, 37-46, 48, 50-52, 59, 63-72 and 74-90 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continuation of Disposition of Claims: Claims pending in the application are 2-8,10-16,18,19,21,22,24,25,27-33,35,37-46,48,50-52,59,63-72 and 74-90.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 2-8,10-16,18,19,21,22,24,25,27-33, 35, 37-46, 48,50-52,59,63-72 and 74-90 have been considered but are moot in view of the new ground(s) of rejection.

Although a new ground of rejection is presented in the majority of the claims, the examiner believes necessary to address some of the applicant's arguments:

Rejection of Claims 2-8, 35-45, 59, 64, 65 and 68-90 under U.S.C. 101

Claims 2-8, 59, 64 and 65:

The steps "maintaining a record", "receiving a request" and "sending the media content to a device of the user that includes a media player to play the media content" do not necessarily need a computer hardware to be performed, as argued by the applicant. (i.e. maintaining a record = a store person keeping track on a notebook what DVD was sold/rented and to who; receiving a request = a user asking a store person for a given DVD; sending the media content to a device of the user that includes a media player to play the media content = the store person giving the DVD content to the user who would go home and place the DVD on a device that has the capability of playing the DVD on a media player). In such example, the actual method of delivering media content was not performed by a computer, but by people. The argued 'computer having both a data storage apparatus and communication interface' is not part of the claim

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language. Therefore, the examiner still respectfully believes that said method does not have an apparatus tied to it.

Claims 35 and 37-45:

The limitation “playing the pre-recorded media content” does not necessarily refers to only playing the content with a machine, but a person can listen to the content and play it with his/her instruments. Therefore, the claim language does not distinguish the playing the pre-recorded media content to be the machine-played content step instead of the person-played step. In such example, the actual method of delivering media content was not performed by a computer, but by people. The argued ‘computer having both a data storage apparatus and communication interface’ is not part of the claim language. Therefore, the examiner still respectfully believes that said method does not have an apparatus tied to it.

Claims 68-75, 81:

The steps “providing to the user access to the media content” can equate to a store person displaying DVDs, CDs, etc for selling/renting to users; “providing the media provider ... a portion of the subscription fee... determined by the number of times the user accesses the media content from the media content provider” can equate to the store providers paying the DVD/CD providers for the selling/renting of them based on how many were needed based on users demand. In such example, the actual method

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of delivering media content was not performed by a computer, but by people. The argued 'computer having both a data storage apparatus and communication interface' is not part of the claim language. Therefore, the examiner still respectfully believes that said method does not have an apparatus tied to it.

Claims 82-85 and Claims 86-90:

Rejected for the same or very similar reasons as claims 68-75 81, addressed above.

Remarks to claims 68-72, 74-75 and 81-85 under 35 USC 103 (a) over LaRocca et al. in view of Baker et al.

Claims 68-72, 74-75 and 81:

The applicant argues that "Baker is silent with respect to any apportionment of subscription fees between providers", Remarks, page 25. To this matter, the examiner respectfully disagrees.

Baker teaches a business model that permits multiple content providers (content composers, ad composers, segment composers, etc) to input their content to a storage on the system. This system will make this content available to users through the internet ([0023]). The system will keep track of all the transactions and usage of all the content ([0031]) and "provides revenue that is proportional to the consumer interest in their works" which is measured in "hits" or times a piece of content is downloaded by listeners or viewers ([0015]). Therefore, the examiner respectfully believes that Baker

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teaches the concept of dividing user-paid fees for a piece of content among the distributing entity and the respective content provider.

Claims 86-90

The applicant argues that 'Ginter and Murphy do not disclose or reasonable suggest *"providing a media content provider...a portion of a subscription fee, wherein the portion is determined by the type of media content provided by the media content provider"*, Remarks page 28. To this matter, the examiner respectfully disagrees.

Ginter clearly teaches having a system where multiple content owners/creators/providers (204, 206, 214, etc, Fig. 1 or simplified 102, Fig. 2) make their content available to consumers (208, Fig. 1 or 112, Fig. 2) through a content distributor (106, Fig. 2). The consumers make payments to the system through the system administrations (116, Fig. 2), which keeps track of all the payments, usage of the content, content providers, etc and makes payments to all the providers, accordingly ([0377]-[0380]; [0390]-[0395]). The criteria to measure the use of the content ranges from type of usage, charges by unit, how to pay, cost of unit, etc (Fig. 4; [0197]; [0198]; [0377]-[0380]; [0413]-[0427]). On the other hand, Ginter does not teach charging for the type of content being used. That is why Murphy is brought in since he teaches a system that charges users according to categories and duration of the programs (Pricing Table, Fig. 6; col. 13 lines 1-26). Being a movie or a television program longer than a weather segment, a second user would be charged higher for a television program than another user for a weather report.

Therefore, the examiner believes that the cited portions of the art of record teach all the limitations of the rejected claims of the applicant's invention as claimed.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim(s) **2-8, 35-45, 59, 64, 65 and 68-90** is/are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. While the claims recite a series of steps or acts to be performed, a statutory "process" under 35 U.S.C. 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing (Reference the May 15, 2008 memorandum issued by Deputy Commissioner for Patent Examining Policy, John J. Love, titled "Clarification of 'Processes' under 35 U.S.C. 101"). The instant claims neither transform underlying subject matter nor positively tie to another statutory category that accomplishes the claimed method steps, and therefore do not qualify as a statutory process.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims **2-8, 10-16, 18, 19, 21, 22, 24, 25, 27-30, 32, 33, 35, 37-41, 43-46, 48, 50, 51, 63-67, 76, 77, 79 and 80** are rejected under 35 U.S.C. 103(a) as being unpatentable over Murphy (Patent No. 6,564,380) in view of Okada et al. (hereinafter 'Okada', Pub. No. 2002/0194618).

Regarding claims 6, 14, 22, 25, 35 and 46, Murphy teaches a computer system (with respective method and computer readable medium) for delivering/receiving media content, the computer system comprising:

a database module (**Local Video PoP servers 110 and Master server 100, Fig. 1**) configured to store a record comprising information about a user (**A user is assigned a passcode or code that identifies the user for after having logged in the server and having paid for requesting services . This pass-code is also sent to the PoP server for authenticating a requesting client –col. 10 lines 38-51; col. 11 lines 19-55; col. 16 lines 12-28. Given that this pass-code can be active for days or per sessions, it is inherent that it is stored at the PoP server for user authentication at different times; and since a user logs on to Master Server, it is also inherent that it keeps information about the user for the logging in**) and a media subscription level obtained by the user (**Master Authorization List keeps a list of different levels of service subscriptions, col. 12 lines 64-col. 13 line 26 or Fig. 6**);

a communication module configured to receive from a user a request for pre-recorded media content (**Master server receives the content request and sends the content through PoP servers 110 through Video Server 310, and Propagation server 320, col. 10 line 52-col. 11 line 4. Where content the transmission to and reception at the client side**); and

a control module (**Master Authorization server, 100 and PoP server 110**) configured to:

determine whether or not the user qualifies to receive the requested media content (**Content must exist prior the transmission to and reception at the client side**) according to the media subscription level, and, in response to the determination that the user does qualify to receive the media content, send the media content to a device of the user that includes a media player to play the media content (**PoP server for authenticating a requesting client –col. 10 lines 38-51; col. 11 lines 19-55; col. 16 lines 12-28, and then sends the requested content to a media player, col. 6 lines 39-51 or browser based display for live content, col. 14 line 47-col. 15 line 24**), and

determine whether or not the user qualifies to access a feature of the media player that enhances the playback of the received media content, and in response to the determination that the user does qualify to access the feature, allow the user to access the feature of the media player (**The different levels have different benefits for the users, being one of them the ability of using a cam, for enhancing a received video, through a set of control buttons displayed on the interface, col. 12**

line 65- col. 13 line 26, . Given that this is a feature that is accessible only by those users that pay its price, it is inherent that the system necessarily has to determine if a requesting user is authorized to make use of the feature; otherwise, it would be a feature for all the users and a higher cost does not need to be added).

Murphy also teaches being able to provide to the user with stored events (at least on Fig. 6 or col. 12 line 65-col. 13 line 26).

On the other hand, although Murphy teaches that one feature of a media interface can be available to the user based on the subscription he/she is part of, Murphy does not explicitly teach allowing/denying access to a feature of the media player that enhances playback to received pre-recorded content.

However, in an analogous art, Okada teaches a system for content distribution (at least on Fig. 1, [0005]; [0029]-[0034]; [0052]) under different subscription layers ([0097]-[0099]). After receiving the content ([0029]-[0034] and [0052] show that the content is transmitted through a network, received and stored locally; [0144]), determination of the subscription level is performed and based on the determination, functions or classes on the media player for features to enhance the playback of the received content are accordingly activated or not ([0044], [0045]; [0051]-[0052]; [0125]; [0199]; [0248]; [0317]-[0318]). Among the enhancing playback functions or features are subtitles, setRate, socket class, event class, button class, setTime, setAudio, etc ([0119]-[0135]; [0248]; [0302]; [0306]; [0317]-[0318]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Murphy's invention with Okada's feature of allowing/denying enhancing features of the media player over pre-recorded content for the benefit of adding different layered-subscription value levels and giving more features to the users that pay more.

Regarding claims 2, 10, 18, 64 and 66, Murphy and Okada teach further comprising, in response to the determination that the user does not qualify to receive the media content, offering a media subscription level to the user that includes the requested media content (**Okada: [0402]-[0406]**).

Regarding claims 3, 11, 19, 27, 37 and 48, Murphy and Okada teach a computer system (with respective method and computer readable medium), wherein the media selection is delivered to the client system via the Internet (**Murphy: col. 7 lines 7-16. Okada: [0029]-[0035]**).

Regarding claims 4, 13 and 67, Murphy and Okada teach a computer system (with respective method and computer readable medium) wherein, in response to the determination that the user does qualify to receive the media content, initiating playback of the media content by the media player (**When only content is received, a regular player is used, col. 6 lines 39-51; when receiving live content and user paid for camera control feature, a browser based display for live content and buttons to**

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manipulate it are additionally present, col. 13 lines 20-26; col. 14 line 47-col. 15 line 24, line 58-col. 16 line 40, where a director, used as an example, paid for the camera control. Okada: [0044], [0045]; [0051]-[0052]; [0125]; [0199]; [0248]; [0317]-[0318]).

Regarding claims 5, 12, 21 and 45, Murphy and Okada teach a computer system (with respective method and computer readable medium) wherein allowing the user to access the feature of the media player includes modifying the media player **(Okada: If free package, only playing of the content is allowed. For the higher levels, different controls are activated, ([0044], [0045]; [0051]-[0052]; [0125]; [0199]; [0248]; [0317]-[0318])).**

Regarding claims 7 and 15, Murphy and Okada teach a computer system (with respective method and computer readable medium) wherein the requested media content is included in a group of media content available under the user's media subscription level **(Murphy: col. 12 lines 24-63).**

Regarding claims 8, 16 and 24, Murphy and Okada teach a computer system (with respective method and computer readable medium) further comprising:

receiving from the user a request to change the availability of media content under the user's media subscription level; determining whether or not the user's media subscription level covers the requested change in availability; and in response to the

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determination that the subscription level does cover the change in availability, changing the availability of the media content under the user's media subscription level **(Murphy: Regardless of the subscription level, i.e. 'All Sports' or 'All Music', Fig. 6, a user can change the availability of a content by changing its 'Use Rights', i.e. access to a feed once to unlimited, by just paying a required amount; making the content available to the user permanently. Okada: [0397]-[0406])**.

Regarding claims 28, 32, 38 and 43, Murphy and Okada teach a computer system (with respective method and computer readable medium) wherein the control module is configured to sign in to a sever of the provider to request the media content from the provider **(Murphy: After being authenticated by the Master and PoP servers, server 310 connect to video data storage 350; Fig. 3; col. 10 line 52-col. 11 line 55);and**

disable access to the feature while not signed in to the provider's server **(Murphy: When the price is based on the length of the feed or based on time of using the service –col. 13 lines 1-26, it is inherent that the server has to know when a user logs off to stop the service).**

Regarding claims 30, 41, 51 and 77, Murphy and Okada teach a computer system (with respective method and computer readable medium) wherein feature includes a screen selection mode that permits a user to vary a screen size for a multimedia presentation **(Okoda: [0357]-[0361])**.

Regarding claims 33, 39 and 44, Murphy and Okada teach a computer system (with respective method and computer readable medium) wherein the control module is configured to receive the-access to the feature each time the media content is received **(Murphy: col. 16 lines 12-40).**

Regarding claim 59, Murphy and Okada teach a computer system (with respective method and computer readable medium) , further comprising receiving a periodic payment to keep the user qualified to receive media content covered by the media subscription level **(Murphy: As seen in Fig. 6, the price paid for authorization for getting programming is paid in a monthly basis).**

Regarding claims 63 and 65, Murphy and Okada teach a computer system (with respective method and computer readable medium) wherein the request from the user includes selecting a hyperlink that corresponds to the media content **(It tremendously well known in the art of searching and requesting content on the internet that after content queries, the results are presented in a hyperlink manner for convenience for the user to select it with just one click).**

Regarding claims 79 and 80, Murphy and Okada teach a computer system (with respective method and computer readable medium) wherein determining whether the user qualifies to access the feature includes determining whether the user's media

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subscription level has expired (**Murphy: As seen in the Pricing Table in Fig. 6, subscription prices are set to be good for a determined amount of time –i.e. per month, per minute, etc. It is inherent that no service will be provided if the time for which a subscriber has paid for has expired; col. 13 lines 1-26. Okada: [0397]-[0406]).**

5. Claims **29, 40, 50 and 76** are rejected under 35 U.S.C. 103(a) as being unpatentable over Murphy (Patent No. 6,564,380) in view of Okada et al. (hereinafter 'Okada', Pub. No. 2002/0194618) in further view of Friedman (Pub. No. 2004/0148362).

Regarding 29, 40, 50 and 76, Murphy and Okada teach all the limitations of the claims they depend on. On the other hand, Murphy and Okada do not explicitly teach wherein the feature includes a graphic equalizer.

However, in analogous art, Friedman teaches a media player that contains a graphic equalizer as a feature for controlling the playing content ([0051]-[0052]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Murphy and Okada's invention by charging users for using a graphic equalizer as the one used in Friedman's media player for the benefit of obtaining profit on a media player feature that gives control over the playing media content.

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6. Claims **31, 42, 52 and 78** are rejected under 35 U.S.C. 103(a) as being unpatentable over Murphy (Patent No. 6,564,380) in view of Okada et al. (hereinafter 'Okada', Pub. No. 2002/0194618) in further view of Holtz et al. (hereinafter 'Holtz', Patent No. 6,760,916)

Regarding claims 31, 42, 52 and 78, Murphy and Okada teach all the limitations of the claims they depend on. On the other hand, Murphy and Okada do not explicitly teach that the selected feature to be an absence or reduction in advertisements.

However, in an analogous art, Holtz teaches a system that provides content on demand from Internet, in which a fee is paid as a premium fee for removing the advertisement off the content (col.44 line 55-col. 45line 12).

Therefore, it would have been obvious to an ordinary skilled in the art at the time of the invention to have modified Murphy and Okada's invention with the feature of providing commercial-free content for the benefit of the content that makes the user viewing experience irritating and at the same time recovering the money that it would have been collected if the commercial was shown, otherwise.

7. Claims **68-72, 74-75 a 81- 85** are rejected under 35 U.S.C. 103(a) as being unpatentable over LaRocca et al. (hereinafter 'LaRocca', Patent No. 6,314,572) in view of Baker et al. (hereinafter 'Baker', Pub. No. 2001/0049824).

Regarding claims 68 and 82, LaRocca teaches a method of allocating subscription fees for media content, the method comprising receiving from a user a subscription fee to allow the user to access media content from a plurality of media content providers **(A user pays a first fee for base service, that would make him/her being able to access content for that base service after authentication, col. 3 lines 30-46)**. On the other hand, LaRocca does not explicitly teach providing a media content provider included in the plurality of content providers a portion of the subscription; wherein the portion is determined by the number of times the user accesses the media content from the media content provider, to a media content provider in response or determined by the number of users who have included the media content provider in their subscription plan.

However, in an analogous art, Baker teaches a system a business model for distribution of content where content providers or program developers get paid proportionally to the amount of users download or use of their content ([0015]). Paying the content provider accordingly to how many users have used its content is the same as paying the content provider for how many users have included the media content provider in their subscription plan, given that by using provider's content, the user is including the content provider in what he/she paid for.

Therefore, it would have been obvious to an ordinary skilled in the art at the time of the invention to have modified LaRocca's invention with Baker's feature of paying the content creator or developer proportionally to the number of times users downloads

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them for the benefit of not paying a fixed amount to content providers even if their content is not being used by costumers.

Regarding claim 69, the combined teachings of LaRocca and Baker teach a method wherein the portion of the subscription fee from the second user is higher than the portion of the fee from the other user **(Given that a user that is not currently a subscriber can get access to the service by paying for the basic plus the extra service for a higher price than someone that is already a subscriber for the basic, LaRocca: col. 3 lines 30-46, and since the system can pay revenues to the content providers proportionally, the portion payment for the second costume would be higher than the other one, Baker: [0015]; [0033])**.

Regarding claims 70, 75 and 84, the combined teachings of LaRocca and Baker teach a method wherein access to the media content is provided via the Internet **(Baker: Abstract, [0010], [0022])**.

Regarding claim 71, the combined teachings of LaRocca and Baker teach a method wherein the media content is transmitted_the computer network transmits media content that is in a packet format **(LaRocca: col. 6 lines 11-25)**.

Regarding claims 74 and 83, the combined teachings of LaRocca and Baker teach a method wherein the media content comprises audio and video content **(LaRocca: col. 3 lines 30-61)**.

Regarding claims 81 and 85, the combined teachings of LaRocca and Baker teach a method further comprising:

receiving from a second user a subscription fee to allow the second user to access media content from the media content provider **(Anyone, another or second user, can subscribe to the service by paying a subscription fee; LaRocca: col. 3 lines 30-46);** and

providing the media content provider a portion of the subscription fee from the second user **(After receiving the second user's fee –LaRocca, col. 3 lines 30-46, the system can pay the content creator proportionally- Baker: [0015]).**

8. Claim **72** is rejected under 35 U.S.C. 103(a) as being unpatentable over LaRocca et al. (hereinafter 'LaRocca', Patent No. 6,314,572) in view of Baker et al. (hereinafter 'Baker', Pub. No. 2001/0049824) as applied to claim 68 above, and further in view of Peterka et al. (hereinafter, 'Peterka', Pub. No. 2002/0170053).

Regarding claim 72, the combined teachings of LaRocca and Baker teach all the limitation of the claim it depends on. On the other hand, LaRocca and Baker do not explicitly teach a method wherein the first fee and the second fee are provided to the media content provider electronically.

However, in an analogous art, Peterka teaches that credit card number is provided as part of the user information and after checking the user is able to get the

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service, they provide it and charge it ([0072]). In other words, Peterka teaches that payments can be performed electronically.

Therefore, it would have been obvious to an ordinary skilled in the art at the time of the invention to have modified LaRocca and Baker's invention with Peterka's teaching of charging a credit card electronically for the benefit of receiving payment of the service immediately and having the user not to use longer processes of payment (writing a check, buying a money order and mail them out).

9. Claims **86-90** are rejected under 35 U.S.C. 103(a) as being unpatentable over Ginter et al (hereinafter 'Ginter', Pub. No. 2008/0148056) in view of Murphy (Patent No. 6,564,380).

Regarding claims 86 and 87, Ginter teaches a system (with respective method) for allocating subscription fees for media content, the method comprising:

receiving from a user a subscription fee to allow the user to access media content from a plurality of media content providers (**120, Fig. 2; [0068]; [0081]; [0126]; [0197]; [0198]; [0204]; [0394]; [2048]; [2192];**); and

providing a media content provider included in the plurality of content providers a portion of the subscription fee (**[0197]; [0198]; [0375]-[0380]; [0390]-[0396]**).

On the other hand, although Ginter teaches that wherein the portion is determined by any different reasons (**Fig. 4; [0197]; [0198]; [0377]-[0380]; [0413]-**

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[0427]), Ginter does not explicitly teach that the reason for the payment is the type of media content provided by the media content provider.

However, in an analogous art, Murphy teaches a system that charges users according to categories and duration of the programs (Pricing Table, Fig. 6; col. 13 lines 1-26). Being a movie or a television program longer than a weather segment, a second user would be charged higher for a television program than another user for a weather report.

Therefore, it would have been obvious to an ordinary skilled in the art at the time of the invention to have modified Ginter's invention with Murphy's feature of charging more a television program client than a weather report user for the benefit of having another way of pricing the service content based on the time the network is used.

Regarding claim 88, Ginter and Murphy teach wherein the media content comprises audio and video content (**Ginter: [0149]; [0161]-[0169]. Murphy: col. 6 lines 25-51).**

Regarding claim 89, Ginter and Murphy teach wherein the media content is streamed over the internet (**Ginter: [0148]; [2139]. Murphy: col. 7 lines 7-16).**

Regarding claim 90, Ginter and Murphy further comprising:

receiving from a second user a subscription fee to allow the second user to access media content from the media content provider; and providing the media content

provider a portion of the subscription fee from the second user (**Given that more than one user can request after paying a fee, the same process of dividing the subscription fee for different content providers will be applied to at least a second user, [0197]; [0198]; [0375]-[0380]; [0390]-[0396]).**

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OMAR PARRA whose telephone number is (571)270-1449. The examiner can normally be reached on 9-6 PM (M-F, every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John W. Miller/
Supervisory Patent Examiner, Art Unit 2421

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